

SETTLERS ON DES MOINES RIVER LANDS.

JUNE 6, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LACEY, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 7880.]

The Committee on the Public Lands, to whom was referred House bill 7880, respectfully report that they have had the same under examination and recommend that it do pass with amendments.

The history of this matter is long and complicated, and we will not in this report attempt again to fully review it, as it has been heretofore fully investigated and reported upon.

We will only give the outlines of the question.

These unfortunate people settled and made their homes upon some of the most fertile lands in Iowa, and, after improving the same, finally found themselves without titles after having occupied their farms for a generation. The peculiar and exceptional character of the controversy and the hardships which it entailed led Congress to attempt to indemnify the settlers for their losses by a provision in the sundry civil appropriation of 1894.

By act of August 8, 1846, Congress granted to the then Territory of Iowa one-half of the unsold public lands in a strip 10 miles wide on each side of the Des Moines River to improve the navigation of said river from its mouth to the Raccoon Fork. (See 9 Stat. L., 77, 78.)

The grant was accepted by the State January 9, 1847.

The Commissioner of the General Land Office held that the grant extended to the source of the river, and on March 2, 1849, Secretary Walker concurred in such construction, and on June 1, 1849, odd sections for 5 miles on each side of the river above the Raccoon Fork were withdrawn.

This construction was sustained by Attorney-General Johnson, of date July 19, 1850. (See 5 Ops. Attys. Gen., 240.)

A contrary opinion was rendered by Attorney-General Crittenden June 30, 1851, holding that the grant of August, 1846, did not extend above the Raccoon Fork. (See 5 Ops. Attys. Gen., 390.)

By joint resolution of March 2, 1861 (12 Stat., 251), Congress confirmed the title to tracts of land along the Des Moines River above the mouth of the Raccoon Fork which had been certified to the State improperly as a part of its grant under the act of 1846.

At the December term, 1859, the Supreme Court of the United States held that the grant of 1846 did not extend above the Raccoon Fork of the Des Moines River. (See *Railroad Company v. Litchfield*, 23 Howard, 66.)

July 12, 1862, Congress extended the grant made by the act of 1846 to the northern boundary of the State. (See 12 Stat., 543.)

The Land Office held, as late as May 9, 1868, the preemption claim of one Herbert Battin for land above the Raccoon Fork to be a good and valid claim as against parties claiming under the grants of 1846 and 1862. This decision was rendered by the Secretary of the Interior, Hon. O. H. Browning, and was final. It was published far and wide over Iowa and operated as an invitation to persons desiring lands to assert claims thereto. The Commissioner of the General Land Office, under the direction of the Secretary of the Interior, ordered the local land officers at Des Moines and Fort Dodge to admit preemption and homestead applications for these lands. This order remained in force up to the decision of the case of *Wells v. Riley*, decided by the Supreme Court of the United States at the December term, 1869. The controversies over the settlers' rights to these lands continued until the Supreme Court of the United States rendered its decision in the case of the *United States v. Des Moines Navigation and Railway Company*, January 11, 1892. (See 142 U. S., 510.)

Congress passed two bills quieting the titles to these lands in the settlers, each of which was vetoed by President Cleveland, one on March 11, 1886, and the other on February 21, 1889. The President's vetoes were based upon the ground that the only proper way to adjust the claims of the settlers was by granting money indemnity for their losses.

After the final decision of the Supreme Court hereinbefore referred to, viz, March 3, 1893, Congress passed an act providing for the investigation of the claims of these settlers. A special commissioner was appointed, who made an exhaustive examination and report. (See Senate Ex. Doc. 97, Fifty-third Congress, second session.) Thereupon Congress inserted in the sundry civil bill of August 18, 1894, an appropriation of \$200,000, to be paid after an examination to such persons as held written evidences of title, and also required that the claims of all settlers on these lands should be investigated and reported to Congress.

In accordance with this act the investigation was made, and the just claims of those holding written evidences of title were found to amount to \$183,854.07, which have been paid by the Secretary of the Interior. (See Senate Doc. 258, Fifty-fourth Congress, first session.) The claims under written evidences of title are scheduled as A and B. Those in A were allowed and those in B rejected. The claims embraced in lists C, D, and E include persons who claimed to have filed on the land claimed under the preemption or homestead laws. List F includes claims that were filed before the commissioner, but default was made as to making proof. List G includes claims based solely upon alleged settlement and improvement, and in some cases where parties offered to file. List H includes claims filed with the Department after the commissioner had concluded his work.

Evidence was taken in and reported in all the claims, and accompanies the papers in each case.

The sundry civil appropriation bill of 1894 has not entirely adjusted the controversy, and the present bill was introduced to make final and complete settlement.

The bill was referred by your committee to the Secretary of the Interior, and in response the following communications were received:

DEPARTMENT OF THE INTERIOR,
Washington, March 21, 1898.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, inclosing for suggestions or information a copy of H. R. 7880, providing for the adjustment and final settlement of claims of bona fide settlers on the so-called Des Moines River lands, Iowa.

The matter was referred to the Commissioner of the General Land Office, and I inclose herein for your information a copy of his report thereon, under date of to-day.

The Commissioner has recommended, for the reasons he has stated, that the bill be amended as he has indicated, so that the time within which claims thereunder may be presented shall run for one year instead of six months. He has also recommended that the title of the bill be amended by substituting the word "Interior" for "Treasury," so that it shall read "Secretary of the Interior." With these amendments the Commissioner states he sees no objection to the bill becoming a law.

I concur in the recommendation of the Commissioner.

Very respectfully,

C. N. BLISS, *Secretary.*

The CHAIRMAN COMMITTEE ON THE PUBLIC LANDS,
House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 21, 1898.

SIR: I am in receipt, by reference from the Department the 15th instant, of a letter dated March 14, 1898, addressed you by Hon. John F. Lacey, chairman of the Committee on the Public Lands, House of Representatives, inclosing House bill 7880, "To authorize the Secretary of the Treasury to adjust and finally settle the claims of bona fide settlers on the so-called Des Moines River lands, in the State of Iowa."

Mr. Lacey, in calling attention to said bill, asks for any suggestions or information thereon that you may deem proper, to aid the committee in its consideration, and, in referring the matter here, the Department calls for early report, in duplicate, and return of papers.

After due consideration of the provisions contained in said bill, I have the honor to submit, in duplicate, the following report: Said bill comprises four sections, and in the body thereof the Secretary of the Interior is the power named as authorized to adjudicate the claims of bona fide settlers on the so-called Des Moines River lands.

The provisions of the sundry-civil act of August 18, 1894 (28 Stat., 372-396, 397), in the matter of said settlers, appropriated \$200,000 for the purpose, and authorized the Department to appoint a special commissioner to investigate, hear and determine the claims of all settlers, etc. The duties of said special commissioner were defined in said act, all the claims were to be reported to Congress, and no money was to be paid in any case until the findings of the commissioner thereon met the approval of the Secretary of the Interior. Mr. Robert L. Berner was appointed special commissioner for the purposes aforesaid and his reports, dated January 21, 1896, and May 1, 1896, are embodied in Senate Document No. 258, Fifty-fourth Congress, first session. Attached to and made a part of Mr. Berner's report the claims are classified under eight lists, lettered A, B, C, D, E, F, G, and H.

Section 1 of the bill under consideration refers to said report (No. 258) and authorizes the Department to investigate the claims of all settlers whose claims were filed before the special commissioner appointed under aforesaid sundry-civil act (of August 18, 1894), embraced in lists C, D, E, G, and H of Mr. Berner's report, "and all other claims of such settlers which were not for any reason filed before said special commissioner that may be presented within six months after this act takes effect."

Section 2 provides for ascertaining sums due qualified parties who in good faith filed or offered to file, within the time prescribed by law, preemption or homestead claims, made settlement, resided upon, cultivated and made valuable improvements on the land claimed, etc., but were not permitted to file by the officers of the land department, etc.

Section 3 provides that any claim embraced in list F of Mr. Berner's report (S. Doc., 258) may be refiled upon the claimant making satisfactory showing to the Secretary of the Interior excusing failure to appear and prosecute his claim

before the aforesaid special commissioner, and further provides to the effect that no claim reported in lists A and B of Mr. Berner's report shall be reopened or be further considered.

Section 4 provides that upon the hearing and examination of the claims referred to report shall be made to Congress containing the name of each claimant to whom any sum is found justly due and the amount in each case, and for the taking of testimony and the examination of the testimony heretofore taken by aforesaid special commissioner, the Department is authorized to expend, out of the balance of money appropriated under act of August, 18, 1894, remaining unexpended, the sum of \$10,000, or so much thereof as may be necessary, etc.

As this Office understands the provisions of said bill, it is the intention of Congress to allow all parties having claims of the character described therein to formulate and present such claims within the period of six months from the date the act is to take effect. All the remaining work in the process of adjudication is to be done by the Department proper, and this Office, working under its direction; and while the provisions of the bill appear to me to be just and equitable to all concerned, I am of the opinion that the time allowed, six months (lines 18 and 19, page 2 of the bill), is not sufficient. It seems to me that at least one year should be allowed for parties to promulgate and present their claims, and as neither the Department nor this Office will have a special commissioner in the field, some cooperation will be required on the part of the local office at Des Moines, Iowa, in adjusting said cases. Public notices, in a manner to be prescribed by the Department, and which will require time, would seem to be necessary, as undoubtedly some of the claimants, their heirs or assigns, are scattered through the several States.

Recommending that the title of the bill be changed by striking out the word "Treasury" and inserting in place thereof the word "Interior," so that it shall read "Secretary of the Interior"; that in section 1, line 18, the word "six" be stricken out and the word "one" inserted; and in line 19 that the word "months" be stricken out and the word "year" inserted, so as to read "one year," I have to say that I see no objection to the bill becoming a law.

Mr. Lacey's letter and said bill (H. R. 7880) are herewith returned, as requested.

Very respectfully,

BINGER HERMANN, *Commissioner.*

Hon. CORNELIUS N. BLISS,
Secretary of the Interior.

Your committee recommend that the bill be amended as suggested by the Commissioner of the General Land Office, as follows:

In lines 18 and 19, page 2, strike out "six months" and insert "one year."

Amend the title of the bill by striking out the word "Treasury" and inserting the word "Interior."